

## SENATE PROPOSAL OF AMENDMENT

### H. 420

An act relating to the office of professional regulation

The Senate proposes to the House to amend the bill as follows:

First: By striking out Sec. 5 in its entirety and inserting in lieu thereof a new Sec. 5 to read:

Sec. 5. 26 V.S.A. chapter 28 is amended to read:

#### CHAPTER 28. NURSING

##### Subchapter 1. Registered and Licensed Practical Nursing

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#### § 1572. DEFINITIONS

As used in this chapter:

\* \* \*

(4) “Advanced practice registered nurse” or “APRN” means a licensed registered nurse authorized to practice in this state who, because of specialized education and experience, is endorsed to perform acts of medical diagnosis and to prescribe medical, therapeutic, or corrective measures under administrative rules adopted by the board.

(5) “License” means a current authorization permitting the practice of nursing as a registered nurse, licensed practical nurse, or advanced practice registered nurse.

#### § 1573. VERMONT STATE BOARD OF NURSING

(a) There is hereby created a Vermont state board of nursing consisting of ~~five~~ six registered nurses, including at least ~~one endorsed~~ two licensed as an advanced practice registered ~~nurse~~ nurses, two practical nurses, one nursing assistant, and two public members. Board members shall be appointed by the governor pursuant to 3 V.S.A. §§ 129b and 2004.

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#### § 1573a. APRN SUBCOMMITTEE

The board shall appoint a subcommittee to study and report to the board on matters relating to advanced practice registered nurse practice. The subcommittee shall be composed of at least five members. The majority shall be advanced practice registered nurses who are licensed and in good standing in this state. At least one member shall be a member of the public, and at least one member shall be a physician designated by the board of medical practice.

Members of the subcommittee shall be entitled to compensation at the rate provided in 32 V.S.A. § 1010.

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§ 1582. REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) The board may deny an application for registration, licensure, or relicensure; revoke or suspend any license to practice nursing issued by it; or discipline or in other ways condition the practice of a registrant or licensee upon due notice and opportunity for hearing in compliance with the provisions of ~~chapter 25 of Title 3, 3 V.S.A. chapter 25~~ if the person engages in the following conduct or the conduct set forth in ~~section 129a of Title 3 V.S.A. § 129a~~:

(1) Has made or caused to be made a false, fraudulent, or forged statement or representation in procuring or attempting to procure registration or renew a license to practice nursing;

\* \* \*

(6) Has a mental, emotional, or physical disability, the nature of which interferes with ability to practice nursing competently; ~~or~~

(7) Engages in conduct of a character likely to deceive, defraud, or harm the public;

(8) Has willfully omitted to file or record or has willfully impeded or obstructed a filing or recording or has induced another person to omit to file or record medical reports required by law;

(9) Has knowingly aided or abetted a health care provider who is not legally practicing within the state in the provision of health care services;

(10) Has permitted his or her name or license to be used by a person, group, or corporation when not actually in charge of or responsible for the treatment given;

(11) Has failed to comply with the patient bill of rights provisions of 18 V.S.A. § 1852; or

(12) Has committed any sexual misconduct that exploits the provider-patient relationship, including sexual contact with a patient, surrogates, or key third parties.

(b) Procedure. The board shall establish a discipline process based on this chapter and the Administrative Procedure Act.

(c) Appeals. ~~(1)~~ Any person or institution aggrieved by any action of the board under this section or section 1581 of this title may appeal as provided in ~~section 130a of Title 3 V.S.A. § 130a~~.

(d) A person shall not be liable in a civil action for damages resulting from the good faith reporting of information to the board about incompetent, unprofessional, or unlawful conduct of a nurse.

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#### § 1584. PROHIBITIONS; OFFENSES

(a) It shall be a violation of this chapter for any person, including any corporation, association, or individual, to:

\* \* \*

(7) Employ unlicensed persons to practice registered ~~or nursing~~, practical nursing, or as a nursing assistant.

\* \* \*

#### Subchapter 3. Advanced Practice Registered Nurses

#### § 1611. ADVANCED PRACTICE REGISTERED NURSE LICENSURE

To be eligible for an APRN license, an applicant shall:

(1) have a degree or certificate from a Vermont graduate nursing program approved by the board or a graduate program approved by a state or a national accrediting agency that includes a curriculum substantially equivalent to programs approved by the board. The educational program shall meet the educational standards set by the national accrediting board and the national certifying board. Programs shall include a supervised clinical component in the role and population focus of the applicant's certification. The program shall prepare nurses to practice advanced nursing in a role as a nurse practitioner, certified nurse midwife, certified nurse anesthetist, or clinical nurse specialist in psychiatric or mental health nursing and shall include, at a minimum, graduate level courses in:

(A) advanced pharmacotherapeutics;

(B) advanced patient assessment; and

(C) advanced pathophysiology;

(2) hold a degree or certificate from an accredited graduate-level educational program preparing the applicant for one of the four recognized APRN roles described in subdivision (1) of this section and have educational preparation consistent with the applicant's certification, role, population focus, and specialty practice; and

(3) hold current advanced nursing certification in a role and population focus granted by a national certifying organization recognized by the board.

#### § 1612. PRACTICE GUIDELINES

(a) APRN licensees shall submit for review individual practice guidelines and receive board approval of the practice guidelines. Practice guidelines shall reflect current standards of advanced nursing practice specific to the APRN's role, population focus, and specialty.

(b) Licensees shall submit for review individual practice guidelines and receive board approval of the practice guidelines:

(1) prior to initial employment;

(2) upon application for renewal of an APRN's registered nurse license;  
and

(3) prior to a change in the APRN's employment or clinical role, population focus, or specialty.

#### § 1613. TRANSITION TO PRACTICE

(a) Graduates with fewer than 24 months and 2,400 hours of licensed active advanced nursing practice in an initial role and population focus or fewer than 12 months and 1,600 hours for any additional role and population focus shall have a formal agreement with a collaborating provider as required by board rule. APRNs shall have and maintain signed and dated copies of all required collaborative provider agreements as part of the practice guidelines. An APRN required to practice with a collaborative provider agreement may not engage in solo practice, except with regard to a role and population focus in which the APRN has met the requirements of this subsection.

(b) An APRN who satisfies the requirements to engage in solo practice pursuant to subsection (a) of this section shall notify the board that these requirements have been met.

#### § 1614. APRN RENEWAL

An APRN license renewal application shall include:

(1) documentation of completion of the APRN practice requirement;

(2) a current certification by a national APRN specialty certifying organization;

(3) current practice guidelines; and

(4) a current collaborative provider agreement if required for transition to practice.

#### § 1615. REGULATORY AUTHORITY; UNPROFESSIONAL CONDUCT

(a) The board may deny an application for licensure or renewal or may revoke, suspend, or otherwise discipline an advanced practice registered nurse upon due notice and opportunity for hearing in compliance with the provisions

of 3 V.S.A. chapter 25 if the person engages in the conduct set forth in 3 V.S.A. § 129a or section 1582 of this title or any of the following:

(1) abandonment of a patient in violation of the duty to maintain a provider–patient relationship within the reasonable expectations of continuing care or referral.

(2) solicitation of professional patronage by agents or persons or profiting from the acts of those representing themselves to be agents of the licensed APRN.

(3) division of fees or agreeing to split or divide the fees received for professional services for any person for bringing or referring a patient.

(4) practice beyond those acts and situations that are within the practice guidelines approved by the board for an APRN and within the limits of the knowledge and experience of the APRN, and, for an APRN who is practicing under a collaborative agreement, practice beyond those acts and situations that are within both the usual scope of the collaborating provider’s practice and the terms of the collaborative agreement.

(5) for an APRN who acts as the collaborating provider for an APRN who is practicing under a collaboration agreement, allowing the mentored APRN to perform a medical act which is outside the usual scope of the mentor’s own practice or which the mentored APRN is not qualified to perform by training or experience or which is not consistent with the requirements of this chapter and the rules of the board.

(6) providing, prescribing, dispensing, or furnishing medical services or prescription medication or prescription-only devices to a person in response to any communication transmitted or received by computer or other electronic means when the licensee fails to take the following actions to establish and maintain a proper provider–patient relationship:

(A) a reasonable effort to verify that the person requesting medication is in fact the patient and is in fact who the person claims to be;

(B) establishment of documented diagnosis through the use of accepted medical practices; and

(C) maintenance of a current medical record.

(7) prescribing, selling, administering, distributing, ordering, or dispensing any drug legally classified as a controlled substance for his or her own use or for an immediate family member.

(8) signing a blank or undated prescription form.

(b)(1) For the purposes of subdivision (a)(6) of this section, an electronic, online, or telephonic evaluation by questionnaire is inadequate for the initial evaluation of the patient.

(2) The following would not be in violation of subdivision (a)(6) of this section:

(A) initial admission orders for newly hospitalized patients;

(B) prescribing for a patient of another provider for whom the prescriber has taken call;

(C) prescribing for a patient examined by a licensed APRN, physician assistant, or other practitioner authorized by law and supported by the APRN;

(D) continuing medication on a short-term basis for a new patient prior to the patient's first appointment; or

(E) emergency situations where the life or health of the patient is in imminent danger.

Second: By striking out Sec. 6 in its entirety

Third: In Sec. 12, in 26 V.S.A. § 3322, by striking out subsection (b) in its entirety and inserting in lieu thereof a new subsection (b) to read:

(b) The licensed appraiser shall include within the body of the appraisal report the amount of the appraiser's fee for appraisal services.

Fourth: By striking out Sec. 15 in its entirety and inserting in lieu thereof a new Sec. 15 to read:

#### Sec. 15. STAKEHOLDER WORKGROUP

Not later than July 1, 2011, the Vermont board of nursing shall convene a workgroup consisting of representatives from nursing homes, hospice agencies, the agency of human services, and nursing assistant educators to make recommendations to the board on the standards for administration of medication by medication nursing assistants as well as standards for education and competency of medication nursing assistants. The board shall submit a report to the general assembly on the status of efforts to establish these standards not later than January 15, 2012.

Fifth: By striking out Sec. 16 (effective date) and inserting in lieu thereof the following:

Sec. 16. 17 V.S.A. § 2121 is amended to read:

#### § 2121. ELIGIBILITY OF VOTERS

(a) Any person may register to vote in the town of his or her residence in any election held in a political subdivision of this state in which he or she resides who, on election day:

(1) is a citizen of the United States;

- (2) is a resident of the state of Vermont;
- (3) has taken the voter's oath; and
- (4) is 18 years of age or more

~~may register to vote in the town of his residence in any election held in a political subdivision of this state in which he resides.~~

(b) Any person meeting the requirements of subdivisions (a)(1)–(3) of this section who will be 18 years of age on or before the date of a general election may register and vote in the primary election immediately preceding that general election.

Sec. 17. 17 V.S.A. § 2702 is amended to read:

§ 2702. NOMINATING PETITION

The name of any person shall be printed upon the primary ballot as a candidate for nomination by any major political party if petitions signed by at least one thousand voters in accordance with sections 2353, 2354, and 2358 of this title are filed with the secretary of state, together with the written consent of the person to the printing of the person's name on the ballot. Petitions shall be filed not later than 5:00 p.m. on the ~~third~~ first Monday after the first Tuesday of January preceding the primary election. The petition shall be in a form prescribed by the secretary of state. A person's name shall not be listed as a candidate on the primary ballot of more than one party in the same election. Each petition shall be accompanied by a filing fee of \$2,000.00 to be paid to the secretary of state and deposited by the secretary of state into the general fund. However, if the petition of a candidate is accompanied by the affidavit of the candidate, which shall be available for public inspection, that the candidate and the candidate's campaign committee are without sufficient funds to pay the filing fee, the secretary of state shall waive all but \$300.00 of the payment of the filing fee by that candidate.

Sec. 18. EFFECTIVE DATE

This act shall take effect on passage.

and by renumbering the sections to be numerically correct